



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

February 8, 2019

FOIA No. 2019-01-110
OASIS No. 1040099

John Templon
BuzzFeed News

VIA ELECTRONIC MAIL: john.templon@buzzfeed.com

Dear Mr. Templon:

This acknowledges receipt of your January 24, 2019 Freedom of Information Act (FOIA), 5 U.S.C. § 552, request to the Department of the Treasury. You are seeking all emails sent or received by Office of Foreign Assets Control (OFAC) Director, Andrea Gacki, during the time period April 1, 2018 through January 1, 2019 containing the following terms: 1) Oleg Deripaska; 2) Lord Barker of Battle; 3) EN+; 4) EuroSibEnergo; and 5) Rusal. Treasury referred your request to the Office of Foreign Assets Control (OFAC) for processing on January 28, 2019.

Your request includes the entire email chain in which Ms. Gacki is a sender or receiver, including “cc” or “bcc,” of one or more emails in the chain, emails sent or received by Ms. Gacki using any alias, and official communications sent or received by Ms. Gacki using any non-Treasury email account.

You have requested expedited processing. We have reviewed your request and determined that you have not met the two requirements for granting expedited processing. First, you have not demonstrated that failure to process your request expeditiously will pose an imminent threat to the life or physical safety of an individual. Second, you have not demonstrated that there is an urgency to inform the public of an actual or alleged government activity. In other words, you have not demonstrated that failure to process the records expeditiously will compromise a significant recognized interest to and throughout the American general public. Therefore, your request for expedited processing is denied. *See* 31 C.F.R. § 1.5(e).

OFAC generally processes its FOIA requests on a “first in, first out” basis. We may encounter some delay in processing your request since OFAC is experiencing a substantial backlog of FOIA requests that has adversely affected its response time. We will make every effort to comply with your request in a timely manner; however, there are approximately 200 open requests pending ahead of yours in our processing queue.

For fee purposes, we have determined that you are a “media” requester. The FOIA, specifically 5 U.S.C. § 552(a)(4)(A), and Treasury FOIA regulations at 31 C.F.R. § 1.7, allow us to recover part of the cost of addressing your request. As a “media” requester, you will be charged the cost of duplication only, excluding charges for the first 100 pages. Duplication will be assessed at

Exhibit B

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20-cents per page. However, because OFAC processes its responses electronically, any assessable fees are typically de minimis. Your request for a fee waiver, therefore, is moot.

Please be aware that OFAC will neither confirm nor deny the existence of investigative records, pursuant to exemptions (b)(1), (b)(3) and (b)(7)(A) of the FOIA, unless there was an actual investigation that resulted in a designation or enforcement action, or the investigation is publicized. The mere acknowledgement of an investigation could reveal classified information and thereby cause harm to our national security posture. Until an actual designation, enforcement action or public acknowledgement of an investigation by Treasury has occurred, release of any information confirming or denying the existence of an investigation could conceivably tip off the subjects of pending investigations.

The mere acknowledgement of an OFAC investigation would allow the subject of the investigation the opportunity to engage in asset flight and change their habits and routines such that an enforcement action or designation would be impossible to obtain. Conversely, if OFAC were to acknowledge that it was not investigating an individual that was actually involved in criminal activity, that information alone may embolden the individual in their continued criminal activities. For those entities and individuals subject to the Kingpin Act [21 U.S.C. § 1904] please be aware that all records or information obtained or created pursuant to the Kingpin Act is excluded from the provisions of the FOIA (5 U.S.C. § 552(a)(3)) pursuant to 21 U.S.C. § 1904(e)(3).

We will query the appropriate OFAC components for responsive records. If responsive records are located, they will be reviewed for determination on release. One of our analysts will respond to your request. We appreciate your patience as we proceed.

You may appeal our denial of expedited processing in writing, within 10 days after the date of this letter to the Freedom of Information Act Appeal, Disclosure Services (DO), Department of the Treasury, Washington, DC 20220. The deciding official for OFAC appeals is the Director, Office of Foreign Assets Control. Please include with your letter of appeal a copy of this response letter and reference FOIA case number 2019-01-110 in your correspondence.

You may also seek dispute resolution services from our Treasury FOIA Public Liaison by contacting Paul Levitan, Director, FOIA and Transparency at 202-622-8098 or FOIAPL@treasury.gov.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448. Enclosed is an information sheet pertaining to your right to administrative appeal.

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We will query the appropriate OFAC components for responsive records. If responsive records are located, they will be reviewed for determination on release. One of our analysts will respond to your request. We appreciate your patience as we proceed.

If you need to contact our office about this matter, please email OFACFOIAOffice@treasury.gov or call our FOIA Requester Service Center at (202) 622-2500, option 3 and leave a detailed message. Please reference FOIA number 2019-01-111.

Sincerely,

Sara E.
Moss
Digitally signed
by Sara E. Moss
Date:
2019.02.08
12:35:10 -05'00'

Sara Elizabeth Moss
Senior FOIA Reviewer
Information Disclosure and Records Management
Office of Sanctions Support and Operations
Office of Foreign Assets Control

Enclosure:
Administrative Appeal and Dispute Resolution Services

ADMINISTRATIVE APPEAL AND DISPUTE RESOLUTION SHEET

ADMINISTRATIVE APPEAL RIGHTS

You may file an appeal with the Department of the Treasury when:

- Access to records has been denied in part or in whole;
- There has been an adverse determination of your requester category;
- Your request for fee waiver or reduction has been denied;
- It has been determined that no responsive records exist; or
- Your request for expedited processing has been denied.

An appeal of a denial for expedited processing must be made within 10 days of the date of the initial determination to deny expedited processing. The appeal must be in writing, signed by you or your representative, and contain the following information:

- Your name and address;
- Date of your initial request;
- Date of the letter denying your request;
- Description of why you believe the initial determination was in error; and
- The FOIA/PA number assigned to your request.

Please mail your appeal to: Freedom of Information Act Appeal
Disclosure Services, DO
Department of the Treasury
Washington, D.C. 20220

The deciding official for OFAC appeals is the Director, Office of Foreign Assets Control.

DISPUTE RESOLUTION SERVICES

Available through:

1. The Treasury FOIA Public Liaison by contacting Ryan Law, Acting Director, FOIA and Transparency at 202-622-8098 or FOIAPL@treasury.gov.
2. The Office of Government Information Services (OGIS) by emailing them at ogis@nara.gov or calling them at 1-877-684-6448.